

## §760.610

## 7 CFR Ch. VII (1–1–11 Edition)

*Qualifying natural disaster designation* means a natural disaster designated by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

*Related condition* means, with respect to a disaster, a condition that causes deterioration of a crop such as insect infestation, plant disease, or aflatoxin that is accelerated or exacerbated as a result of damaging weather, as determined by the Deputy Administrator.

*Reliable production records* means evidence provided by the participant to the FSA county office that FSA determines is adequate to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements, deposit slips, register tapes, invoices for custom harvesting, records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries. When the term “acceptable production records” is used in this rule, it may be either reliable or verifiable production records, as defined in this section.

*Reported acreage or production* means information obtained from the participant or the participant’s agent, on a form prescribed by FSA or through insurance records.

*RMA* means the Risk Management Agency.

*Salvage value* means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

*Secretary* means the Secretary of Agriculture.

*State* means a State; the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

*Subsequent crop* means any crop planted after an initial crop, on the same land, during the same crop year.

*SURE* means the Supplemental Revenue Assistance Payments Program.

*Unit of measure* means:

(1) For all insurable crops, the FCIC established unit of measure;

(2) For all noninsurable crops, if available, the established unit of measure used for the NAP price and yield;

(3) For aquatic species, a standard unit of measure such as gallons, pounds, inches or pieces, established by the FSA State committee for all aquatic species or varieties;

(4) For turfgrass sod, a square yard;

(5) For maple sap, a gallon; and

(6) For all other crops, the smallest unit of measure that lends itself to the greatest level of accuracy, as determined by the FSA State committee.

*USDA* means United States Department of Agriculture.

*Value loss crop* has the meaning specified in part 1437, subpart D of this title. Unless otherwise announced by FSA, value loss crops for SURE include aquaculture, floriculture, ornamental nursery, Christmas trees, mushrooms, ginseng, and turfgrass sod.

*Verifiable production records* mean evidence that is used to substantiate the amount of production reported and that can be verified by FSA through an independent source.

*Volunteer stand* means plants that grow from seed residue or are indigenous or are not planted. Volunteer plants may sprout from seeds left behind during a harvest of a previous crop; be unintentionally introduced to land by wind, birds, or fish; or be inadvertently mixed into a crop’s growing medium.

### §760.610 Participant eligibility.

(a) In addition to meeting the eligibility requirements of §760.103, a participant must meet all of the following conditions:

(1) All insurable crops on the participant’s farm must be covered by crop insurance administered by RMA in accordance with FCIA, and all non-insured crops must be covered under NAP, as specified in §760.104, unless the participant meets the requirements in either §760.105 or §760.107. At the discretion of FSA, the equitable relief provisions in §760.106 may apply.

(2) Crop losses must have occurred in crop year 2008 and subsequent crop years through September 30, 2011, as a result of disaster as defined in §760.602, and must have occurred in the particular crop year for which benefits are sought under this subpart.

(3) A qualifying loss as defined in §760.602 must have occurred.

(4) The participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title, for 2008 and subsequent crop years through September 30, 2011, as applicable, and must not otherwise be barred from receiving benefits or payments under part 12 of this title or any other law.

(5) The participant must not be ineligible or otherwise barred from the requisite risk management insurance programs or NAP because of past violations where those insurance programs or NAP would otherwise be available absent such violations.

(6) The participant must have an entitlement to an ownership share of the crop and also assume production and market risks associated with the production of the crop. In the event the crop was planted but not produced, participants must have an ownership share of the crop that would have been produced.

(i) Any verbal or written contract that precludes the grower from having an ownership share renders the grower ineligible for payments under this subpart.

(ii) Growers growing eligible crops under contract are not eligible participants under this subpart unless the grower has an ownership share of the crop.

(b) In the event that a producer is determined not to be an eligible producer of a crop in accordance with this section, such crop will be disregarded in determining the producer's production or eligibility for payments under this subpart. However, any insurance, farm program, or NAP payments received by the producer on such crop will count as farm revenue if that producer is an eligible participant as a producer of other crops.

(c) Participants may not receive payments with respect to volunteer stands of crops. Volunteer stands will not be considered in either the calculation of revenue or of the SURE guarantee.

(d) A deceased applicant or an applicant that is a dissolved entity that suffered losses prior to the death or the dissolution that met all eligibility criteria prior to death or dissolution may be eligible for payments for such losses

if an authorized representative signs the application for payment. Proof of authority to sign for the deceased participant or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(e) Participants receiving payments under the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program (ELAP) as specified in subpart C of this part are not eligible to receive payments under SURE for the same loss.

(f) Participants with a farming interest in multiple counties who apply for SURE payment based on a Secretarial disaster designation must have a 10 percent loss of a crop of economic significance located in at least one disaster county, as defined in this subpart, to be eligible for SURE.

#### **§760.611 Qualifying losses, eligible causes and types of loss.**

(a) Eligible causes of loss are disasters which cause types of losses where the crop could not be planted or where crop production was adversely affected in quantity, quality, or both. A qualifying loss, as defined in this subpart, must be the result of a disaster.

(b) A loss will not be considered a qualifying loss if any of the following apply:

(1) The cause of the loss was not the result of disaster;

(2) The cause of loss was due to poor management decisions or poor farming practices, as determined by the FSA county committee on a case-by-case basis;

(3) The cause of loss was due to failure of the participant to re-seed or replant to the same crop in a county where it is customary to re-seed or replant after a loss before the final planting date;